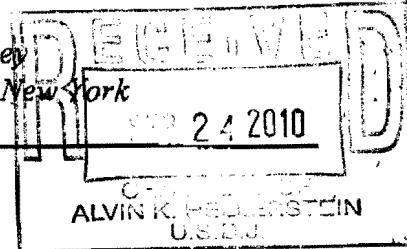


U.S. Department of Justice

United States Attorney
Southern District of New York86 Chambers Street
New York, New York 10007

September 24, 2010

BY FACSIMILE

Hon. Alvin K. Hellerstein
United States District Court
Southern District of New York
500 Pearl Street, Room 1050
New York, New York 10007-1312

*So ordered
9/27/10
AKH*

Re: ACLU, et al. v. Department of Defense, et al., No. 04 Civ. 4151 (AKH)

Dear Judge Hellerstein:

We write respectfully to request a stay of the Government's obligation to disclose an intelligence method contained in two memoranda from the Department of Justice Office of Legal Counsel ("OLC") while the Court considers the joint motion submitted by the parties earlier today, which requests, inter alia, that the Court enter final judgment pursuant to Rule 54(b) of the Federal Rules of Civil Procedure with respect to its rulings on the parties' fourth and fifth motions for summary judgment (the "Joint Rule 54(b) Motion"). We have consulted with Plaintiff's counsel, and they consent to this request.

On December 29, 2009, the Court issued an order with respect to the fourth motion for summary judgment. The Court's order upheld most of the Government's limited redactions to the two OLC memoranda, but required the Government to disclose certain information. On January 15, 2010, plaintiffs filed a motion for reconsideration of the December 29, 2009 order which sought, inter alia, the disclosure of other information withheld from the same two OLC memoranda. By Order and Opinion filed July 15, 2010, the Court denied the plaintiffs' motion for reconsideration.

Since the Court's orders regarding the parties' fourth motion for summary judgment dated December 29, 2009 and July 15, 2010, the Government has requested, and the Court has granted, various extensions of the stay of the Government's disclosure obligation with respect to the intelligence method in the two OLC memoranda. Most recently, pursuant to the Court's Order of September 3, 2010, the Government's disclosure obligation is stayed through September 27, 2010.

In anticipation of an appeal of the Court's rulings on the parties' fourth and fifth motions for summary judgment, earlier today the parties filed the Joint Rule 54(b) Motion. Accordingly, so that the Court may have the opportunity to consider the parties' Joint Rule 54(b) Motion, we respectfully request a stay of the Government's disclosure obligation pending the

Hon. Alvin K. Hellerstein
September 24, 2010

Court's consideration of that Motion, and for twenty days after the Court's ruling on the Joint Rule 54(b) Motion in the event that the Court denies such Motion.

We thank the Court for its consideration of this request.

Respectfully submitted,

PREET BHARARA
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